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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,512	03/17/2004	John R. Lewis	MVIS 98-52 C 3	3964

7590 06/27/2005

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EXAMINER

ROBINSON, MARK A

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/802,512	Applicant(s) LEWIS ET AL.	
	Examiner Mark A. Robinson	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-54 is/are pending in the application.
4a) Of the above claim(s) 35-46 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 47-54 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/25/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2872

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 47,48 and 50-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Metlitsky (US 5545886).

Metlitsky discloses an image capture device or bar code scanner including plural laser diode beam emitters(81-83) able to operate sequentially and sharing a common scanning mirror(76), a photodetector(15) outputting a signal to a decoder(20) which produces a bitmap (fig. 19) image of the field of view. Metlitsky's scanner satisfies the amended language of "operable to scan the beams across substantially non-overlapping respective regions of a field of view" since his beams are

Art Unit: 2872

scanned across substantially non-overlapping regions
(13a,13b,13c) as shown in figs. 16,17,19 and 20.

3. Claims 47,48,50 and 52-54 are rejected under 35
U.S.C. 102(e) as being anticipated by Krichever (US 5988502).

Krichever discloses an image capture device or bar code
scanner including plural laser diode beam emitters
(201,202,300,etc.; note also col. 7 lines 66-67) able to operate
sequentially and sharing a common scanning mirror(207,1322), a
photodetector(212,1324) outputting a signal to a
decoder(217,218,etc.) which decodes a bar code symbol(208).
Note that the beams are scanned across substantially non-
overlapping regions as taught in col. 9 lines 17-28.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which
forms the basis for all obviousness rejections set forth in this
Office action:

(a) A patent may not be obtained though the invention is not identically
disclosed or described as set forth in section 102 of this title, if the
differences between the subject matter sought to be patented and the prior
art are such that the subject matter as a whole would have been obvious at
the time the invention was made to a person having ordinary skill in the
art to which said subject matter pertains. Patentability shall not be
negated by the manner in which the invention was made.

Art Unit: 2872

5. Claims 49 rejected under 35 U.S.C. 103(a) as being unpatentable over Metlitsky (US 5545886) in view of Obata (US 5597997).

Metlitsky further discloses emission and detection of a plurality of unique wavelengths of light (fig. 17), but does not explicitly teach plural photodetectors for receiving the light. However, Obata teaches multiple detectors for the various wavelengths (see fig. 6a). It would have been obvious to the ordinarily skilled artisan at the time of invention to use plural detectors as shown by Obata as an art-recognized equivalent means for multiple wavelength detection as the detecting arrangement shown by Metlitsky. Note that the use of multiple detectors would also provide greater flexibility in the positioning or calibration of the individual detectors.

6. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krichever (US 5988502) in view of Obata (US 5597997).

Krichever further discloses emission and detection of a plurality of unique wavelengths of light (note the paragraph bridging col. 7-8), but does not explicitly teach plural photodetectors for receiving the light. However, Obata teaches multiple detectors for the various wavelengths (see fig. 6a).

Art Unit: 2872

It would have been obvious to the ordinarily skilled artisan at the time of invention to use plural detectors as shown by Obata as an art-recognized equivalent means for multiple wavelength detection as the detecting arrangement shown by Krichever. Note that the use of multiple detectors would also provide greater flexibility in the positioning or calibration of the individual detectors.

7. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krichever (US 5988502) in view of Metlitsky (US 5545886).

Krichever does not teach producing a bitmap of the decoded image. However, Metlitsky does teach producing a bitmap of the decoded image as noted above. It would have been obvious to the ordinarily skilled artisan at the time of invention to produce a bitmap of Krichever's image to enable computer storage and/or analysis of the image.

Response to Arguments

8. Applicant's arguments filed 3/14/05 have been fully considered but they are not persuasive.

As discussed above, Metlitsky's beam scan pattern satisfies the claimed language since the beams are scanned across

Art Unit: 2872

regions(13a,13b,13c) which do not overlap (i.e. during a single scan pass, these regions do not overlap).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Robinson whose telephone number is (571) 272-2319.

Art Unit: 2872

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn, can be reached at (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MR

6/24/05


MARK A. ROBINSON
PRIMARY EXAMINER